

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the First Amended)

Accusation Against:)

)

)

ROSE JEANNINE KENNY, M.D.)

Case No. 800-2015-013954

)

Physician's and Surgeon's)

Certificate No. A 69759)

)

Respondent)

)

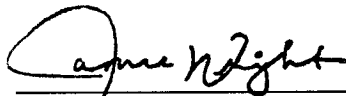
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on February 3, 2017.

IT IS SO ORDERED: January 5, 2017.

MEDICAL BOARD OF CALIFORNIA



**Jamie Wright, JD, Chair
Panel A**

1 KAMALA D. HARRIS
Attorney General of California
2 JANE ZACK SIMON (SBN 116564)
Supervising Deputy Attorney General
3 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102
4 Telephone: (415) 703-5544
Fax: (415) 703-5480
5 Email: Janezack.simon@doj.ca.gov

6 *Attorneys for Complainant*
7 *Medical Board of California*

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the First Amended Accusation Against:

Case No.: 800-2015-013954

13 **ROSE JEANNINE KENNY, M.D.**

14 Family Care Center
236 NW Kingwood
Redmond, OR 97756

**STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER**

15 Physician's and Surgeon's Certificate No. A69759

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical
20 Board of California. This action has been at all times brought and maintained solely in the
21 official capacity of the Medical Board's Executive Director, who is represented in this matter by
22 Kamala D. Harris, Attorney General of the State of California, by Jane Zack Simon, Supervising
23 Deputy Attorney General.

24 2. Rose Jeannine Kenny, M.D. (Respondent) is represented in this proceeding by
25 Robert F. Hahn and Iustina Mignea of Gould & Hahn, 2550 Ninth Street, Suite 101, Berkeley,
26 CA 94710.

27 3. On September 10, 1999, the Medical Board of California issued Physician's and
28 Surgeon's Certificate No. A69759 to Respondent. The certificate is renewed and current.

1 4. First Amended Accusation No. 800-2015-013954 was duly filed before the
2 Medical Board of California (Board), properly served on Respondent, and is currently pending
3 against Respondent. A copy of the First Amended Accusation is attached as Exhibit A.

4 5. Respondent has carefully read, discussed with counsel, and understands the
5 charges and allegations in the First Amended Accusation. Respondent has also carefully read,
6 discussed with counsel and understands the effects of this Stipulated Settlement and Disciplinary
7 Order (Stipulation).

8 6. Respondent is fully aware of her legal rights in this matter, including the right to a
9 hearing on the charges and allegations in the First Amended Accusation; the right to be
10 represented by counsel at her own expense; the right to confront and cross-examine the witnesses
11 against her the right to present evidence and to testify on her own behalf; the right to the issuance
12 of subpoenas to compel the attendance of witnesses and the production of documents; the right to
13 reconsideration and court review of an adverse decision; and all other rights accorded by the
14 California Administrative Procedure Act and other applicable laws.

15 7. For the purpose of resolving the charges and allegations in the First Amended
16 Accusation, without the expense and uncertainty of further proceedings, Respondent agrees that
17 based on the action taken by the Oregon Medical Board, cause exists to discipline her California
18 Physician's and Surgeon's certificate and she agrees to be bound by the Board's imposition of
19 discipline as set forth in the Disciplinary Order below.

20 8. The admissions made by Respondent herein are only for the purposes of
21 this proceeding or any other proceedings in which the Medical Board of California or other
22 professional licensing agency is involved, and shall not be admissible in any other criminal or
23 civil proceedings.

24 9. This Stipulation shall be subject to the approval of the Board. Respondent
25 understands and agrees that Board staff and counsel for Complainant may communicate directly
26 with the Board regarding this Stipulation, without notice to or participation by Respondent or her
27 counsel. If the Board fails to adopt this Stipulation as its Order in this matter, the Stipulation
28 shall be of no force or effect; it shall be inadmissible in any legal action between the parties; and

1 the Board shall not be disqualified from further action in this matter by virtue of its consideration
2 of this Stipulation. Respondent also understands and agrees that he will not be able to withdraw
3 or modify this Stipulation while it is before the Board for consideration

4 10. The parties understand and agree that Portable Document Format (PDF) and
5 facsimile copies of this Stipulated Settlement and Disciplinary Order, including Portable
6 Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as
7 the originals.

8 11. In consideration of the foregoing admissions and stipulations, the parties
9 agree that the Board may, without further notice or formal proceeding, issue and enter the
10 following Disciplinary Order:

11 **DISCIPLINARY ORDER**

12 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate number A69759
13 issued to respondent Rose Jeannine Kenny, M.D. is revoked. However, the revocation is stayed
14 and Respondent is placed on probation for five (5) years on the following terms and conditions.

15 1. **Clinical Training Program**

16 Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a
17 clinical training or educational program equivalent to the Physician Assessment and Clinical
18 Education Program (PACE) offered at the University of California - San Diego School of
19 Medicine (Program). Respondent shall successfully complete the Program not later than six (6)
20 months after Respondent's initial enrollment unless the Board or its designee agrees in writing to
21 an extension of that time. The Program shall consist of a Comprehensive Assessment program
22 comprised of a two-day assessment of Respondent's physical and mental health; basic clinical
23 and communication skills common to all clinicians; and medical knowledge, skill and judgment
24 pertaining to Respondent's area of practice in which Respondent was alleged to be deficient, and
25 at minimum, a 40 hour program of clinical education in the area of practice in which Respondent
26 was alleged to be deficient and which takes into account data obtained from the assessment,
27 Decision(s), Accusation(s), and any other information that the Board or its designee deems
28 relevant. Respondent shall pay all expenses associated with the clinical training program.

1 Based on Respondent's performance and test results in the assessment and clinical
2 education, the Program will advise the Board or its designee of its recommendation(s) for the
3 scope and length of any additional educational or clinical training, treatment for any medical
4 condition, treatment for any psychological condition, or anything else affecting Respondent's
5 practice of medicine. Respondent shall comply with Program recommendations.

6 At the completion of any additional educational or clinical training, Respondent shall
7 submit to and pass an examination. Determination as to whether Respondent successfully
8 completed the examination or successfully completed the program is solely within the program's
9 jurisdiction.

10 If Respondent fails to enroll, participate in, or successfully complete the clinical training
11 program within the designated time period, Respondent shall receive a notification from the
12 Board or its designee to cease the practice of medicine within three (3) calendar days after being
13 so notified. Respondent shall not resume the practice of medicine until enrollment or
14 participation in the outstanding portions of the clinical training program have been completed. If
15 Respondent did not successfully complete the clinical training program, the Respondent shall not
16 resume the practice of medicine until a final decision has been rendered on an accusation and/or a
17 petition to revoke probation. The cessation of practice shall not apply to the reduction of the
18 probationary time period.

19 **2. Professionalism Program (Ethics Course)**

20 Within sixty (60) calendar days of the effective date of this Decision, Respondent shall
21 enroll in a professionalism program, that meets the requirements of Title 16, California Code of
22 Regulations (CCR) section 1358. Respondent shall participate in and successfully complete that
23 program. Respondent shall provide any information and documents that the program may deem
24 pertinent. Respondent shall successfully complete the classroom component of the program not
25 later than six (6) months after Respondent's initial enrollment, and the longitudinal component of
26 the program not later than the time specified by the program, but no later than one (1) year after
27 attending the classroom component. The professionalism program shall be at Respondent's
28 expense and shall be in addition to the Continuing Medical Education (CME) requirements for

1 renewal of licensure.

2 A professionalism program taken after the acts that gave rise to the charges in the
3 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
4 or its designee, be accepted towards the fulfillment of this condition if the program would have
5 been approved by the Board or its designee had the program been taken after the effective date of
6 this Decision. Respondent shall submit a certification of successful completion to the Board or its
7 designee not later than 15 calendar days after successfully completing the program or not later
8 than 15 calendar days after the effective date of the Decision, whichever is later.

9 **3. Prescribing Practices Course**

10 Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a
11 course in prescribing practices equivalent to the Prescribing Practices Course at the Physician
12 Assessment and Clinical Education Program, University of California, San Diego School of
13 Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide
14 the program with any information and documents that the Program may deem pertinent.
15 Respondent shall participate in and successfully complete the classroom component of the course
16 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
17 complete any other component of the course within one (1) year of enrollment. The prescribing
18 practices course shall be at Respondent's expense and shall be in addition to the Continuing
19 Medical Education (CME) requirements for renewal of licensure. A prescribing practices course
20 taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date
21 of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the
22 fulfillment of this condition if the course would have been approved by the Board or its designee
23 had the course been taken after the effective date of this Decision. Respondent shall submit a
24 certification of successful completion to the Board or its designee not later than 15 calendar days
25 after successfully completing the course, or not later than 15 calendar days after the effective date
26 of the Decision, whichever is later.

27 **4. Medical Records Keeping Course**

28 Within sixty (60) calendar days of the effective date of this Decision, Respondent shall

1 enroll in a course in medical record keeping, equivalent to the Medical Record Keeping Course
2 offered by the Physician Assessment and Clinical Education Program, University of California
3 San Diego School of Medicine (Program), approved in advance by the Board or its designee.
4 Respondent shall provide the Program with any information and documents that the Program may
5 deem pertinent. Respondent shall participate in an successfully complete the classroom
6 component of the course not later than six (6) months after Respondent's initial enrollment.
7 Respondent shall successfully complete any other component of the course within one (1) year of
8 enrollment. The medical record keeping course shall be at Respondent's expense and shall be in
9 addition to the Continuing Medical Education (CME) requirements for renewal of licensure. A
10 medical record keeping course taken after the acts that gave rise to the charges in the Accusation,
11 but prior the effective date of the Decision may, in the sole discretion of the Board or its designee,
12 be accepted towards the fulfillment of this condition if the course would have been approved by
13 the Board or its designee had the course been taken after the effective date of the Decision.
14 Respondent shall submit a certification of successful completion to the Board or its designee not
15 later than fifteen (15) calendar days after successfully completing the course, or not later than 15
16 calendar days after the effective date of the Decision, whichever is later.

17 **5. Education Course**

18 Within 60 calendar days of the effective date of this Decision, and on an annual basis
19 thereafter, Respondent shall submit to the Board or its designee for its prior approval an
20 educational program(s) or course(s) which shall not be less than 25 hours per year, for each year
21 of probation. The educational program(s) or course(s) shall emphasize the prescribing of
22 controlled substances and antibiotics, be aimed at correcting any areas of deficient practice or
23 knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at
24 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)
25 requirements for renewal of licensure. Following the completion of each course, the Board or its
26 designee may administer an examination to test Respondent's knowledge of the course.
27 Respondent shall provide proof of attendance in satisfaction of this condition.

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1 **6. Practice Monitor**

2 Within thirty (30) calendar days of the effective date of this Decision, Respondent shall
3 submit to the Board or its designee for prior approval as a practice monitor, the name and
4 qualifications of one or more licensed physicians and surgeons whose licenses are valid and in
5 good standing, and who are preferably American Board of Medical Specialties (ABMS) certified.
6 A monitor shall have no prior or current business or personal relationship with Respondent, or
7 other relationship that could reasonably be expected to compromise the ability of the monitor to
8 render fair and unbiased reports to the Board, including but not limited to any form of bartering,
9 shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor.
10 Respondent shall pay all monitoring costs. The Board or its designee shall provide the approved
11 monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan.
12 Within fifteen (15) calendar days of receipt of the Decision(s), Accusation(s), and proposed
13 monitoring plan, the monitor shall submit a signed statement that the monitor has read the
14 Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees
15 with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan,
16 the monitor shall submit a revised monitoring plan with the signed statement for approval by the
17 Board or its designee.

18 Within sixty (60) calendar days of the effective date of this Decision, and continuing
19 throughout probation, Respondent's practice shall be monitored by the approved monitor.
20 Respondent shall make all records available for immediate inspection and copying on the
21 premises by the monitor at all times during business hours and shall retain the records for the
22 entire term of probation. If Respondent fails to obtain approval of a monitor within sixty (60)
23 calendar days of the effective date of the Decision, Respondent shall receive a notification from
24 the Board or its designee to cease the practice of medicine within three (3) calendar days after
25 being so notified. Respondent shall cease the practice of medicine until a monitor is approved to
26 provide monitoring responsibility.

27 The monitor shall submit a quarterly written report to the Board or its designee which
28 includes an evaluation of Respondent's performance, indicating whether Respondent's practices

1 are within the standards of practice of medicine, and whether Respondent is practicing medicine
2 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the
3 quarterly written reports to the Board or its designee within 10 calendar days after the end of the
4 preceding quarter.

5 If the monitor resigns or is no longer available, Respondent shall, within five (5) calendar
6 days of such resignation or unavailability, submit to the Board or its designee, for prior approval,
7 the name and qualifications of a replacement monitor who will be assuming that responsibility
8 within fifteen (15) calendar days. If Respondent fails to obtain approval of a replacement monitor
9 within thirty (30) calendar days of the resignation or unavailability of the monitor, Respondent
10 shall receive a notification from the Board or its designee to cease the practice of medicine within
11 three (3) calendar days after being so notified. Respondent shall cease the practice of medicine
12 until a replacement monitor is approved and assumes monitoring responsibility.

13 **7. Solo Practice Prohibition**

14 Respondent is prohibited from engaging in the solo practice of medicine in California.
15 Prohibited solo practice includes, but is not limited to, a practice where: 1) Respondent merely
16 shares office space with another physician but is not affiliated for purposes of providing patient
17 care, or 2) Respondent is the sole physician practitioner at that location.

18 Respondent shall not practice medicine in California until Respondent has demonstrated
19 to the Board or its designee that she has established a practice with another physician or secured
20 employment in an appropriate practice. In the event Respondent fails to demonstrate compliance
21 with this provision, Respondent shall receive a notification from the Board or its designee to
22 cease the practice of medicine within three (3) calendar days after being so notified. The
23 Respondent shall not resume practice until an appropriate practice setting is established and
24 approved by the Board or its designee.

25 If, during the course of the probation, the Respondent's practice setting changes and the
26 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent
27 shall notify the Board or its designee within 5 calendar days of the practice setting change. If
28 Respondent fails to establish a practice with another physician or secure employment in an

1 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
2 shall receive a notification from the Board or its designee to cease the practice of medicine within
3 three (3) calendar days after being so notified. The Respondent shall not resume practice until an
4 appropriate practice setting is established.

5 **8. Notification**

6 Within seven (7) days of the effective date of this Decision, Respondent shall provide a
7 true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at
8 every hospital where privileges or membership are extended to Respondent, at any other facility
9 where Respondent engages in the practice of medicine, including all physician and locum tenens
10 registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier
11 which extends malpractice insurance coverage to respondent. Respondent shall submit proof of
12 compliance to the Board or its designee within fifteen (15) calendar days. This condition shall
13 apply to any change(s) in hospitals, other facilities or insurance carrier.

14 **9. Supervision of Physician Assistants**

15 During probation, Respondent is prohibited from supervising Physician Assistants.

16 **10. Obey all Laws**

17 Respondent shall obey all federal, state and local laws, all rules governing the
18 practice of medicine in California, and remain in full compliance with any court ordered criminal
19 probation, payments and other orders.

20 **11. Quarterly Declarations**

21 Respondent shall submit quarterly declarations under penalty of perjury on forms
22 provided by the Board, stating whether there has been compliance with all the conditions of
23 probation. Respondent shall submit quarterly declarations not later than ten (10) calendar days
24 after the end of the preceding quarter.

25 **12. General Probation Requirements**

26 Respondent shall cooperate and comply with the Board's probation unit and all terms and
27 conditions of this Decision. Respondent shall, at all times, keep the Board informed of
28 Respondent's business and residence addresses, email address (if available) and telephone

1 number(s). Changes of such information shall be immediately communicated in writing to the
2 Board or its designee. Under no circumstances shall a post office box serve as an address of
3 record, except as allowed by Business and Professions Code section 2021(b). Respondent shall
4 not engage in the practice of medicine in Respondent's or patient's place of residence, unless the
5 patient resides in a skilled nursing facility or other similar license facility. Respondent shall
6 maintain a current and renewed California physician's and surgeon's license. Respondent shall
7 immediately inform the Board, or its designee, in writing, of travel to any areas outside the
8 jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days. In
9 the event Respondent should leave the State of California to reside or to practice Respondent shall
10 notify the Board or its designee in writing thirty (30) calendar days prior to the dates of departure
11 and return.

12 **13. Interview With the Board, or its Designee**

13 Respondent shall be available in person upon request for interviews either at Respondent's
14 place of business or at the probation unit office, with or without prior notice throughout the term
15 of probation.

16 **14. Non-Practice While on Probation**

17 Respondent shall notify the Board or its designee in writing within fifteen (15)
18 calendar days of any periods of non-practice lasting more than thirty (30) days and within fifteen
19 (15) calendar days of Respondent's return to practice. Non-practice is defined as any period of
20 time Respondent is not practicing medicine in California as defined in Business and Professions
21 Code sections 2051 and 2052 for at least forty (40) hours in a calendar month in direct patient
22 care, clinical activity or teaching, or other activity as approved by the Board or its designee. All
23 time spent in an intensive training program which has been approved by the Board or its designee
24 shall not be considered non-practice. Practicing medicine in another state of the United States or
25 Federal jurisdiction while on probation with the medical licensing authority of that state or
26 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
27 not be considered as a period of non-practice. In the event Respondent's period of non-practice
28 while on probation exceeds 18 calendar months, Respondent shall successfully complete a

1 clinical training program that meets the criteria of Condition 18 of the current version of the
2 Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming
3 the practice of medicine. Respondent's period of non-practice while on probation shall not
4 exceed two (2) years. Periods of non-practice will not apply to the reduction of the probationary
5 term. Periods of non-practice will relieve Respondent of the responsibility to comply with the
6 probationary terms and conditions with the exception of this condition and the following terms
7 and conditions of probation: Notification; Obey All Laws; and General Probation Requirements.

8 **15. Completion of Probation**

9 Respondent shall comply with all financial obligations (e.g., restitution, probation costs)
10 not later than one hundred twenty (120) calendar days prior to the completion of probation. Upon
11 successful completion of probation, Respondent's certificate shall be fully restored.

12 **16. Violation of Probation**

13 Failure to fully comply with any term or condition of probation is a violation of
14 probation. If Respondent violates probation in any respect, the Board, after giving Respondent
15 notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order
16 that was stayed. If an Accusation, Petition to Revoke Probation, or an Interim Suspension Order
17 is filed against Respondent during probation, the Board shall have continuing jurisdiction until
18 the matter is final, and the period of probation shall be extended until the matter is final.

19 **17. License Surrender**

20 Following the effective date of this Decision, if Respondent ceases practicing due to
21 retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation,
22 Respondent may request to surrender of his or her license. The Board reserves the right to
23 evaluate Respondent's request and to exercise its discretion in determining whether or not to
24 grant the request, or to take any other action deemed appropriate and reasonable under the
25 circumstances. Upon formal acceptance of the surrender, Respondent shall within fifteen (15)
26 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and
27 Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms
28 and conditions of probation. If Respondent re-applies for a medical license, the application shall

1 be treated as a petition for reinstatement of a revoked certificate.

2 **18. Probation Monitoring Costs**

3 Respondent shall pay the costs associated with probation monitoring each and every year
4 of probation, as designated by the Board and which may be adjusted on an annual basis. Such
5 costs shall be payable to the Medical Board of California and delivered to the Board or its
6 designee no later than January 31 of each calendar year.

7 **ACCEPTANCE**

8 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
9 discussed it with my attorney. I understand the Stipulation and the effect it will have on my
10 Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary
11 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
12 of the Medical Board of California.

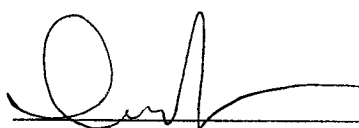
13 DATED: 11/22/16


14 **ROSE JEANNINE KENNY, M.D.**
15 *Respondent*

16 **APPROVAL**

17 I have read and fully discussed with Respondent Rose Jeannine Kenny, M.D. the terms and
18 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
19 I approve its form and content.

20 DATED: 11/22/16


21 **ROBERT F. HAHN**
22 **IUSTINA MIGNEA**
23 *Gould & Hahn*
Attorneys for Respondent

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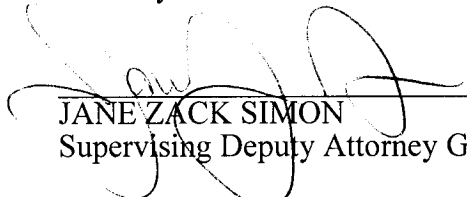
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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED: 11/23/16

KAMALA D. HARRIS
Attorney General of the State of California



JANE ZACK SIMON
Supervising Deputy Attorney General
Attorneys for Complainant

1 KAMALA D. HARRIS
2 Attorney General of California
3 JANE ZACK SIMON
4 Supervising Deputy Attorney General
5 State Bar No. 116564
6 455 Golden Gate Avenue, Suite 11000
7 San Francisco, CA 94102-7004
8 Telephone: (415) 703-5544
9 Facsimile: (415) 703-5480
10 E-mail: Janezack.simon@doj.ca.gov

11 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO OCTOBER 17 2016
BY: Ric Allen ANALYST

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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation
Against:

Case No. 800-2015-013954

ROSE JEANNINE KENNY, M.D.

FIRST AMENDED ACCUSATION

Family Care Center
236 NW Kingwood
Redmond, OR 97756

Physician's and Surgeon's Certificate No.
A69759

Respondent.

The Complainant alleges:

1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board of California, Department of Consumer Affairs, and brings this First Amended Accusation solely in her official capacity.

2. On September 10, 1999, Physician's and Surgeon's Certificate No. A69759 was issued by the Medical Board of California to Rose Jeannine Kenny, M.D. (Respondent.) The certificate is renewed and current with an expiration date of January 31, 2017.

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3. This First Amended Accusation is brought before the Medical Board of California

A. Section 2227 of the Code provides in part that the Board may revoke,

B. Section 2305 of the Code provides, in part, that the revocation, suspension,

“(a) For any licensee holding a license issued by a board under the jurisdiction of a department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or by another country shall be conclusive evidence of the events related therein.

“(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by the board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.”

FIRST CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by Another State)

4. On January 21, 2015, the Oregon Medical Board issued a Complaint and Notice of

1 review for additional patients revealed a pattern of inappropriate prescribing of antibiotics and
2 opioids. On April 28, 2015, the Oregon Medical Board issued an Interim Stipulated Order, under
3 which Respondent was prohibited from prescribing or administering testosterone to any patient.
4 On the same date, an Amended Complaint and Notice of Proposed Disciplinary Action was filed,
5 adding allegations regarding Respondent's prescription of testosterone to patients. On May 13,
6 2015, an Amended Interim Stipulated Order was issued, prohibiting Respondent from prescribing
7 or administering testosterone to any male patient.

8 On October 6, 2016, the Oregon Medical Board issued a Stipulated Order. The Stipulated
9 Order resolved a Third Amended Complaint and Notice of Proposed Disciplinary Action alleging
10 gross or repeated negligence in the practice of medicine, willful violation of Board statute, rule,
11 board order or board request, and inappropriate prescribing of controlled substances. Under the
12 terms of the Stipulated Order, Respondent's Oregon license was reprimanded and a civil penalty
13 imposed. She was placed on probation for five years, with terms and conditions including:
14 quarterly probation interviews; successful completion of the CPEP (Center for Personalized
15 Education for Physicians) Education Plan; completion of courses in medical documentation and
16 prescribing; practice is limited to settings pre-approved by the Oregon Board's Medical Director;
17 Respondent is subject to random chart audits; Respondent must prescribe antibiotics based on
18 published peer reviewed guidelines and reassess patients prior to authorizing refills of antibiotics;
19 Respondent must only prescribe testosterone for male patients based on published medical
20 guidelines; Respondent must only order lab test that are medically supported in the record.

21 A copy of the Stipulated Order issued by the Oregon Medical Board is attached as
22 Exhibit A.

23 5. Respondent's conduct and the action of the Oregon Medical Board as set forth in
24 paragraph 4, above, constitutes cause for discipline pursuant to sections 2305 and/or 141 of the
25 Code.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A69759 issued to respondent Rose Jeannine Kenny, M.D.;
2. Revoking, suspending or denying approval of Respondent's authority to supervise physician assistants;
3. Ordering Respondent, if placed on probation, to pay the costs of probation monitoring; and
4. Taking such other and further action as the Board deems necessary and proper.

DATED: October 17, 2016


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

EXHIBIT A

1 BEFORE THE
2 OREGON MEDICAL BOARD
3 STATE OF OREGON

4
5 In the Matter of)
6 ROSE JEANNINE KENNY, MD)
7 LICENSE NO. MD23253)
8)

9) STIPULATED ORDER

10 1.

11 The Oregon Medical Board (Board) is the state agency responsible for licensing,
12 regulating and disciplining certain health care providers, including physicians, in the state of
13 Oregon. Rose Jeannine Kenny, MD (Licensee) is a licensed physician in the state of Oregon.

14 2.

15 On July 1, 2016, the Board issued a third Amended Complaint and Notice of Proposed
16 Disciplinary Action, in which the Board proposed taking disciplinary action by imposing up to
17 the maximum range of potential sanctions identified in ORS 677.205(2), to include the
18 revocation of license, a \$10,000 civil penalty, and assessment of costs, pursuant to ORS 677.205
19 against Licensee for violations of the Medical Practice Act, to wit: ORS 677.190(1)(a), as
20 defined by ORS 677.188(4)(a) and (c); ORS 677.190(13) gross or repeated negligence in the
21 practice of medicine; ORS 677.190(17) willfully violating any provision of the Board's statute,
22 rule, board order or board request pursuant to ORS 677.320; and ORS 677.190(24) prescribing
23 controlled substances without a legitimate medical purpose, or prescribing controlled substances
24 without following accepted procedures for examination of patients, or prescribing controlled
25 substances without following accepted procedures for record keeping.

26 3.

27 Licensee is a board-certified family practice physician practicing in Bend, Oregon. On
28 April 22, 2015, Licensee entered into an Interim Stipulated Order with the Board in which
29 Licensee agreed to cease the prescribing and administration of testosterone to patients. On May

1 5, 2015, the Interim Stipulated Order was amended to limit the prescribing and administration of
2 testosterone to male patients only.

3 4.

4 Licensee and the Board desire to settle this matter by entry of this Stipulated Order.
5 Licensee understands that she has the right to a contested case hearing under the Administrative
6 Procedures Act (chapter 183), Oregon Revised Statutes. Licensee fully and finally waives the
7 right to a contested case hearing and any appeal therefrom by the signing of and entry of this
8 Order in the Board's records. Licensee denies but the Board finds that she engaged in the
9 conduct described in the Third Amended Complaint and Notice of Proposed Disciplinary Action
10 referenced above, and that this conduct violated ORS 677.190(1)(a), as defined by ORS
11 677.188(4)(a) and (c); ORS 677.190(13); ORS 677.190(17); and ORS 677.190(24). Licensee
12 understands that this Order is a public record and is a disciplinary action that is reportable to the
13 National Data Bank and the Federation of State Medical Boards.

14 5.

15 Licensee and the Board agree to resolve this matter by the entry of this Stipulated Order
16 subject to the following terms and conditions of probation:

17 5.1 Licensee is reprimanded.

18 5.2 Licensee must pay a civil penalty of \$8,500 within 90 days from the date the
19 Board Chair signs this Order.

20 5.3 Licensee is placed on probation for five years. Licensee must report in person to
21 the Board at each of its quarterly meetings at the scheduled times for a probation interview,
22 unless otherwise directed by the Board's Compliance Officer or its Investigative Committee. In
23 the event the Board develops protocols for conducting electronic probation interviews,
24 interviews may be held electronically, at the Board's discretion, between Licensee and the
25 Board's Compliance Officer (or its designee) using Board established protocols for the location
26 and electronic transmission of the meeting. Licensee is responsible for supplying and
27 maintaining the equipment and technology necessary for her to participate in the electronic

1 meetings. Licensee will be notified if and when such meetings are scheduled in lieu of an in
2 person appearance at a quarterly Board meeting.

3 5.4 At her own expense, Licensee must successfully complete the recommended
4 CPEP Education Plan, within 18 months from the date the CPEP Education Program is approved
5 by the Board's Medical Director. Licensee must sign all necessary releases to authorize full
6 ongoing communication between the Board and CPEP, and Licensee must ensure that all reports
7 and the final written evaluation report from CPEP are provided promptly to the Board.

8 5.5 Licensee must provide the Board with written proof from CPEP upon successful
9 completion of the recommended Education Program, including successful completion of the
10 Post-Education Evaluation.

11 5.6 Within six months from the signing of this Order by the Board Chair and at her
12 own expense, Licensee must successfully complete a course on medical documentation and a
13 course on prescribing that are pre-approved by the Board's Medical Director. It is noted that
14 Licensee has completed the course on medical documentation.

15 5.7 Licensee may only practice medicine in settings that are pre-approved by the
16 Board's Medical Director.

17 5.8 During the probation period and at her own expense, Licensee's medical practice
18 is subject to random, no notice chart audits by the Board's designee. At the conclusion of the
19 CPEP education program, Licensee's practice is also subject to an annual chart audit at
20 Licensee's expense by the Board's designee.

21 5.9 Licensee must prescribe antibiotics based on published peer reviewed guidelines
22 and reassess patients prior to authorizing refills of antibiotics.

23 5.10 Licensee, when prescribing testosterone for male patients, must only prescribe
24 based on medical guidelines published by the American Association of Clinical Endocrinologist
25 for clinical practice for the evaluation and treatment of hypogonadism.

26 5.11 Licensee must only order lab tests that are medically supported in the record.
27 ///

1 5.12 The Amended Interim Stipulated Order of May 5, 2015, terminates the date this
2 Order is signed by the Board Chair.

3 5.13 Licensee stipulates and agrees that this Order becomes effective the date it is
4 signed by the Board Chair.

5 5.14 Licensee must obey all federal and Oregon state laws and regulations pertaining
6 to the practice of medicine.

7 5.15 Licensee stipulates and agrees that any violation of the terms of this Order shall
8 be grounds for further disciplinary action under ORS 677.190(17).

9

10 IT IS SO STIPULATED THIS 16th day of August, 2016.

11

12

ROSE JEANNINE KENNY, MD

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14

IT IS SO ORDERED THIS 6th day of October, 2016.

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OREGON MEDICAL BOARD
State of Oregon

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SHIRIN SUKUMAR, MD
BOARD CHAIR

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